

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7279

BILL NUMBER: HB 1849

NOTE PREPARED: Apr 30, 2003

BILL AMENDED: Apr 7, 2003

SUBJECT: Possession of Firearm by Domestic Batterer.

FIRST AUTHOR: Rep. Lawson L

FIRST SPONSOR: Sen. Long

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It provides that a person convicted of a crime of domestic violence may not possess a firearm even after the person's right to vote or right to serve on a jury has been restored.

(B) It permits a person to have the right to possess a firearm restored: (1) after the expiration of a five-year period; or (2) if the underlying domestic violence conviction is reversed on appeal or on post-conviction review.

(C) It also specifies that at the time of sentencing, a court shall determine whether a person has committed a crime of domestic violence and record a determination that a defendant has committed a crime of domestic violence on a form prepared by the Division of State Court Administration.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Provision C* could reduce the costs of the State Police staff in determining whether an applicant for a firearm permit has been convicted of a misdemeanor domestic violence offense. Under IC 35-47-2.5, a gun dealer may not sell, rent, trade, or transfer a firearm without first receiving a criminal history check from the Indiana State Police. The State Police assign staff to specifically search the criminal history database for felonies and misdemeanors resulting from domestic violence convictions. Currently, there is no method for the State Police to systematically identify misdemeanors that result from an act of domestic violence. If these offenses are clearly identified as domestic violence crimes, then the State Police would be able to reduce the amount of time to search records to determine whether an applicant for a firearm has been convicted of a misdemeanor related to domestic violence.

Explanation of State Revenues: (Revised) *Provision A:* This bill provides for a Class A misdemeanor for

a person who has been convicted of a domestic violence crime and who knowingly or intentionally possesses a firearm. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Provision B - Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *Provision A:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Provision B's effect on the number of court hearings in a particular county will depend on how often firearms have been taken away from a person who has been convicted of domestic violence and how often these individuals will petition the court to have the person's right to possess a firearm restored.

Explanation of Local Revenues: *Provision A:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

Provision B - Court Fee Revenue: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

Gun License Fees: Under current law, a qualified handgun license fee for hunting and target practice is \$5 and for an unlimited handgun license fee for the protection of life and property is \$15. In CY 2001, there were 80,121 unlimited handgun permits issued and 210 qualified licenses. *There are no data available to indicate how many of these licenses were issued to people who had been convicted of a domestic violence crime.* If offenders convicted of domestic violence crimes who have had voting and jury service rights restored will not qualify for a handgun license, these local funds may forego revenues until the five-year term expires.

State Agencies Affected: Indiana State Police; Division of State Court Administration.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: IC 35-47-2.5

Fiscal Analyst: Mark Goodpaster, 317-232-9852